

TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Selectmen **Date:** October 29, 2004

From: Garry A. Rhodes, Building Commissioner

Subject: Site Plan Special Permit #04/30/04-398
19 Railroad Street (Foster)

The Hearing was continued to allow time for the applicant to meet with both the Historic District Commission and the Acton Community Housing Authority. It is my understanding the Commission will be meeting on November 1 to discuss the exterior design of the buildings.

I met with the applicant and members of the Acton Community Housing Authority. There appears to be a common ground that needs additional time to prepare the proper wording. I have attached a copy of Ms. Tavernier's comments. I have not shared them with the applicant at the time of this IDC. If the Board finds all issues are resolved to your satisfaction the hearing could be taken under advisement subject to information necessary to settle on the wording.

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

P.O. Box 681

Acton, Massachusetts, 01720

Telephone (978) 263-4776

Fax (978) 266-1408

TO: Garry Rhodes
FROM: Nancy Tavernier, Chair ACHC
SUBJECT: 19 Railroad St. affordable unit options
DATE: October 29, 2004
Cc: ACHC

Members of the ACHC met with the developer of 19 Railroad St, Michael Gurtler, and Garry Rhodes to discuss options for the provision of one or more deed restricted affordable housing units in Gurtler's proposed development. Due to the fact that Mr. Gurtler does not plan to sell the condo units until 1 year following occupancy, for income tax purposes, the complexity of locking in a unit at this time at the current estimated price of \$200,000 presents too great a challenge for all involved.

It was resolved to create a condition in the decision that would require the developer to give the "Right of First Refusal" to the Town via the Acton Community Housing Corporation with a 120 day waiting period to allow the legal intricacies of the agreement to be crafted and the marketing of the unit to income eligible households to be accomplished.

ACHC offers the following suggested wording with the caveat that it is not legally crafted with only parts of it from either existing DHCD documents or previous local decisions on affordable housing developments. The "intent" should be clear even if the words are not legally proper. The Intent is to give the ACHC an opportunity to add at least one deed restricted DHCD –approved unit to be counted toward the Town's 10% unit count.

It is understood by the developer and the ACHC that a public subsidy would most likely be required to fund the gap between the market price and the affordable price. ACHC would intend to use affordable housing funds, including CPA, for this purpose. I would suggest this should not be included in the decision however, given the uncertain nature of those funds' availability. If the ACHC were not able to come up with funding to create a unit, the sale would not go forward and the terms would lapse.

Here is the suggested wording:

Upon issuance of a valid certificate of occupancy and when the Applicant is ready to sell up to two condo units, the Applicant shall offer in writing to the Town to make available said property to a qualified low or moderate income first time homebuyer. This shall be administered by the Acton Community Housing Corporation, or any other affordable

housing entity, such as the Acton Housing Authority, for the express purpose of providing one or more deed-restricted affordable housing units.

Notice of such offer shall be addressed to the Acton Community Housing Corporation at Acton Town Hall. The ACHC shall exercise the Right of First Refusal by written notice to the Applicant within 120 days of the Applicant's offer. If such notice shall not be given within such time, and a time extension has not been requested by the ACHC, the Right of First Refusal shall be deemed lapsed and the ACHC shall have no further rights hereunder.

The exercise of such Right of First Refusal is expressly contingent upon the execution of a mutually-acceptable purchase and sale agreement for the property which shall be subject to the approval of the MA Department of Housing and Community Development.

The designated affordable unit shall be offered to qualified low or moderate-income first time homebuyers. Sales price, deed, deed restrictions, and all other documents and procedures shall comply with the DHCD's Local Initiative Program (LIP). If permitted by DHCD, the affordable unit shall be marketed under ACHC's local preference guidelines.

The Applicant shall bear the cost of marketing the designated affordable unit, including the cost of the lottery that may be necessary to select from a pool of qualified homebuyers. Included in those costs, generally 3% of the selling price, would be the expense of hiring a consultant to prepare all the necessary documents and applications required for certification of the affordable unit by DHCD. Throughout the process of marketing and selling the designated affordable unit, the Applicant shall consult with and seek guidance from the ACHC, which is the designated facilitator of affordable housing in Acton.